

**ANNUAL PROTECTION & ADVOCACY OF INDIVIDUAL RIGHTS (PAIR)
PROGRAM PERFORMANCE REPORT**

Fiscal Year 2000

DESIGNATED AGENCY IDENTIFICATION		
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PART I. NON-CASE SERVICES:		
A. Individual Information and Referral Services (I&R): (Multiple responses are not permitted.)		
1. Individuals receiving I&R <u>within</u> PAIR's priority areas	4,019	
2. Individuals receiving I&R <u>outside</u> of PAIR's priority areas	3,113	
3. Total individuals receiving I&R (lines A1+A2)	7,132	
B. Training Activities:		
1. Number of trainings presented by PAIR staff	13	
2. Number of individuals who attended these trainings (approximate)	674	
Describe the trainings presented by PAIR staff. Be sure to include information about the topics covered, the training methods used, and the purpose for the training. Use separate sheets if necessary.		
Date	Title of Presentation	Audience
10/20/99	ADA Issues, Self-Advocacy	Eggleston Industries
10/23/99	ADA Issues/Accessibility, Litigation	Old Dominion Council for the Blind and Visually Impaired
11/16/99	ADA Advocacy	St. Joseph's Villa
12/3/99	Confidentiality	Endeppence Center, In-Service
12/7/99	ADA Advocacy	Statewide DSB Meeting
2/19/00	Case Settlement	National Federation for the Blind
3/10/00	ADA Accessibility, Public Accommodations, Transportation	Old Dominion Conference on Disability
5/25/00	Title I, ADA, What is Discrimination/Getting Assistive Technology Through IDEA	Research and Rehabilitation Training Center at Virginia Commonwealth University; Self-Advocacy Leadership Institute at George Mason University

6/24/00	ADA Paratransit Law, Updates on Case Law	NAPAS Annual Conference
7/20/00	ADA and Fair Housing Act	Roanoke Housing & Redevelopment Authority
7/26/00	Civil Rights for Persons with Disabilities	Board for People with Disabilities Youth Forum
7/28/00	Voting Rights for Persons with Disabilities	State Board of Elections, Registrar and Electoral Board Training
9/17/00	Building Accessible Communities	The Consortium on Developmental Disabilities Councils
C. Information Disseminated to the Public:		
1. Radio and TV appearances by PAIR staff		0
2. Newspaper/magazine/journal articles		23*
3. PSAs/videos aired		0
4. Hits on the PAIR/P&A website		Unknown
5. Publications/booklets/brochures disseminated		1,699
6. Other (specify on separate sheet)		**

* These were articles published about the P&A in the newspaper not articles published by the P&A.

**At the beginning of the fiscal year (10/1– 10/24/99), DRVD was concluding an outdoor advertising campaign in designated counties in Southwest Virginia. It was designed to increase knowledge and awareness of DRVD in the rural areas of the state.

PART II. INDIVIDUALS SERVED:	
A. Individuals Served: (An individual is counted only once per fiscal year. Multiple counts are not permitted for lines A1 through A3.)	
1. Individuals who were still being served as of October 1 (carryover from prior fiscal year)	54
2. Additional individuals who were served during the year	74
3. Total individuals served (lines A1+A2)	128
4. Individuals who had more than one case file opened/closed during the fiscal year. (This number is not added to the total on line A3 above.)	0
B. Individuals still served as of September 30 (carryover to next year) (May not exceed total on line II.A.3 above.)	56
C. Problem Areas/Complaints of Individuals Served:	
1. Architectural accessibility	50
2. Employment	6
3. Program access	51
4. Housing	0
5. Government benefits/services	0
6. Transportation	15
7. Education	5
8. Assistive technology	0
9. Voting	0
10. Health care	3
11. Insurance	1
12. Non-government services	0
13. Privacy rights	0
14. Access to records	0

15. Abuse	0
16. Neglect	0
17. Other	0
D. Reasons for Closing Individual's Case Files:	
1. Issues resolved partially or completely in the individual's favor	49
2. Other representation found	0
3. Individual withdrew complaint	9
4. Appeals were unsuccessful	3
5. PAIR services not needed due to individual's death, relocation, etc.	1
6. PAIR withdrew from case	0
7. PAIR unable to take case because of lack of resources	0
8. Individual's case lacks legal merit	4
9. Other (Please explain on separate sheet.) <i>No response from client.</i>	7
E. Intervention Strategies Used in Serving Individuals: (List the <u>highest level</u> of intervention used by PAIR prior to closing each case file.)	
1. Technical assistance in self-advocacy	6
2. Short-term assistance	11
3. Investigation/monitoring	0
4. Negotiation	70
5. Mediation/alternative dispute resolution	0
6. Administrative hearings	1
7. Litigation (including class actions)	1
8. Systemic/policy activities*	3
Issues 2, 4, and 5 described under Part IV, Systemic activities	
F. Satisfaction of Individuals Served:	
1. Number of satisfaction surveys distributed	73
2. Number of satisfaction surveys returned	16
3. Of the total number of surveys returned, indicate how many individuals rated their overall satisfaction with PAIR in the following ways:	
a. very satisfied	12
b. satisfied	3
c. not satisfied	1
4. Of the total number of surveys returned, indicate whether the individual served would use PAIR again:	
a. yes	14
b. no	2
PART III. STATISTICAL INFORMATION ON INDIVIDUALS SERVED:	
A. Age of Individuals Served: (as of October 1) (Multiple responses not permitted.)	
1. 0 - 4	1
2. 5 - 22	15
3. 23 - 59	86
4. 60 - 64	6
5. 65 and over	17
* Three unknown	
B. Gender of Individuals Served: (Multiple responses not permitted)	
1. Females	69
2. Males	59

C. Race/Ethnicity of Individuals Served: (Multiple responses permitted)	
1. White	99
2. Black or African American	27
3. American Indian or Alaska Native	0
4. Asian	0
5. Native Hawaiian or other Pacific Islander	0
6. Hispanic or Latino	2
7. Race/ethnicity unknown	0
D. Living Arrangements of Individuals Served: (Multiple responses not permitted)	
1. Independent	91
2. Parental or other family home	24
3. Community residential home	1
4. Foster care	0
5. Nursing home	3
6. Public institutional living arrangement	0
7. Private institutional living arrangement	1
8. Jail/prison/detention center	7
9. Homeless	0
10. Other living arrangements	1
11. Living arrangements not known	0
E. Primary Disability of Individuals Served: (Identify the individual's primary disability, namely the one directly related to the issues/complaints raised by the individual.)	
1. Blind/visual impairment	10
2. Deaf/hard of hearing	18
3. Deaf-blind	0
4. Orthopedic impairment	32
5. Mental illness	2
6. Substance abuse	0
7. Mental retardation	0
8. Learning disability	6
9. Neurological impairment	2
10. Respiratory impairment	3
11. Heart/other circulatory impairment	4
12. Muscular/skeletal impairment	7
13. Speech impairment	1
14. AIDS/HIV	1
15. Traumatic brain injury	5
16. Other disability	37

PART IV. SYSTEMIC ACTIVITIES AND LITIGATION:	
A. Systemic Activities:	
1. Number of policies/practices changed as a result of non-litigation systemic activities Issues 1: 450 policies Issue 2: 2 policies Issue 3. 6 policies Issue 3. 1 policy	459
2. Number of individuals potentially impacted by policy changes Issue 1 & 2 : 1,000,000 Issue 3. 625,192 Issue 4. 9 Issue 5. Unknown	1,000,000
Describe your systemic activities. Be sure to include information about the policies that were changed and how these changes benefit individuals with disabilities. Include case examples of how your systemic activities impacted individuals served. (Attach separate sheets if necessary.)	

1. **ADA Statewide Campaign.** DRVD commenced its ADA Accessibility Campaign by hiring and training individuals to randomly survey public accommodations throughout the Commonwealth. Non-compliant sites were then sent Technical Assistance letters informing them of the areas of ADA in which they were out of compliance. Those that did not respond were sent a second letter informing them that they would be subject to Title III litigation if they did not bring their facilities into compliance with the ADA and ADAAG. As a result of the Campaign, over 450 hotels, restaurants, theatres, offices and retail stores throughout Virginia have agreed to bring their facilities into full compliance with the ADA and ADAAG through policy and other changes. Several large chains settled cases with DRVD by agreeing to bring all of their facilities in the Commonwealth into full compliance. The most significant was the agreement with Boddie-Noell, Inc., the largest Hardees franchisee in the United States, which will result in over 200 facilities being fully renovated and brought into full compliance with the ADA within 3 years. These policy changes affect each of the approximately one million persons in the Commonwealth. The Campaign surveyed and settled cases with public accommodations in every corner of the state. As a direct result of the Campaign, persons with disabilities will have far greater access to everyday needs and recreation
2. **Lottery Accessibility.** DRVD investigated and determined that most (93%) Lottery franchisees were in violation of the ADA. DRVD contacted the Virginia Lottery and obtained its concurrence to bring its program into compliance with Title II of ADA. After several negotiating sessions, the Lottery agreed to survey each of its over 5,300 franchisees. DRVD provided training for the surveyors and developed the survey instrument. After the survey determined over 90% of Lottery franchisees were inaccessible, DRVD and the Lottery agreed to resolve the matter. The Virginia Lottery has changed 2 major policies: (1) The way licenses are issued to prospective sellers of Lottery products and (2) The way licenses of current sellers of Lottery products are renewed. Previously, the Lottery had asked prospective franchisees to confirm that they were "accessible" but took no action to confirm the response. No franchisee had ever been denied a license or license renewal because of inaccessibility. The revised Lottery policy now requires all prospective Lottery licensees to state whether they are in fact accessible, and each location is surveyed by Lottery personnel before granting a license to sell Lottery products. Similarly, all current Lottery franchises have been surveyed and, if they fail/refuse to correct any deficiencies, they risk license revocation and loss of revenues. These policy changes potentially affect every person with a physical disability in the Commonwealth of Virginia. Over 5,300 retail locations in the Commonwealth sell Lottery tickets, including major supermarkets, gas stations and convenience stores. People with disabilities must go to these places to purchase many of the things they need for daily sustenance. Because the lottery now requires that these locations be physically accessible, persons with disabilities will have full access to basic necessities such as food, milk, gas, etc. Based on national statistics, the number of persons with physical disabilities in the Commonwealth has been estimated at one million.

3. Voting Accessibility. PAIR worked collaboratively with the Virginia State Board of Elections (SBE) Task Force on Accessibility to identify barriers to accessibility for persons with disabilities at the polls, and to find ways to eliminate these barriers. This resulted in six (6) practice/policy changes. These changes were recommended by the State Board to all Virginia localities. The Task Force identified a number of barriers to persons with disabilities at the polls. Each of the 135 jurisdictions was required to do a self-evaluation of each polling site, and to report those results to the State Board. DRVD assisted the SBE in completing this process by sending a legal intern to survey those sites where the localities had failed to comply. To date, all but one jurisdiction, Chesterfield County has been surveyed.

DRVD also assisted in training Registrars on current and proposed legislation. Registrars also received training on how to provide accommodations for voters who are blind and/or deaf, or who otherwise may need accommodations in order to vote. The Task Force developed a booklet for use by Registrars on "Preparing a Ballot for a Blind Voter," in which detailed instructions were given for preparing templates. In its recommendations to the localities, the SBE asked that all jurisdictions be required to provide voting by template and tape recorder, with taped ballots, unless there were voting machines available with voice explanation capabilities; requiring all jurisdictions to provide "pocket talkers" for the hard of hearing, magnifiers for use by persons who are visually impaired, and chairs for persons who are mobility impaired; and requiring that each jurisdiction place at least one advertisement, PSA or story about services provided to voters with disabilities. The Task Force also developed a brochure describing these services, which was available for distribution by the registrars. In addition, DRVD participated in a review of several new voting machines proposed for approval.

In addition, this Task Force identified four (4) proposed legislative changes, which will be presented to potential sponsors by members of the task force. Of these, two will require a change in the Virginia Constitution. These are: first, the creation of a permanent absentee ballot application list, with special application procedures for persons with disabilities who would then not have to re-apply each year for an absentee ballot if they chose to vote in this manner; and second, permit a person with a disability to vote a conditional ballot at any precinct. Other legislative changes discussed include requiring that all new polling places be physically accessible and eliminating the requirement of the use of a witness on an application to vote absentee form.

These changes will potentially benefit all disabled voters in Virginia. The U.S. Census Bureau estimates the overall disability rate to be 19.4% (the rate ranges from 5.8% for children under 18 years old, to 13.6% for persons 18 to 44 years old, to 29.2% for persons 45 to 63, and 53.9% for persons 65 and over). Using the 19.4% estimate, there are 781,489.5 persons who will be potentially affected by these changes. This is based on 4,029,325 registered voters in Virginia as of October 1, 2000. The Virginia State Board of elections reports that in 1992 there was a 84.5% voter turnout, and a 74% turnout in 1996. Using an average of 80% of the number of persons with disabilities who have a potential for being affected, the final number of persons with disabilities who will likely be affected is 625,192 individuals.

4. Services to Deaf Inmates. DRVD work resulted in two policy changes on behalf of nine deaf inmates. Inmates at a correctional facility had no access to TTY telephone or interpreter services. The PAIR attorney met with the warden, correctional staff, and Department of Corrections Central Office Administrators. The Department of Corrections agreed to appoint an ADA Coordinator in the Central Office for all accommodation requests. The Department of Corrections acquired TTY Telephones and modified its telephone usage policy to allow reasonable access to TTY telephone by deaf inmates. They also agreed to provide American Sign Language interpreters during all mental health appointments for deaf inmates and agreed to purchase televisions with closed captioning for dayroom use.

5. Taxi services for people with disabilities. A major Alexandria, Virginia taxi company has changed its policy regarding providing transportation to persons who use service animals. DRVD commenced this activity after receiving complaints that a major taxi company, operating out of Ronald Reagan National Airport, refused to provide transportation to persons using service animals. After substantial negotiation, the company signed a settlement agreement and each of its drivers signed individual agreements, stating that they will not discriminate against persons with disabilities, including persons using service animals. This policy change will effect every person who uses a service animal and who requires transportation. Since the taxi company is a major provider for Ronald Reagan National Airport, the policy change will have a great effect on visitors to the Commonwealth, business travelers and tourists.

B. Litigation/Class Actions:

1. Number of individuals potentially impacted by changes as a result of PAIR's litigation/class action efforts	
(A) <u>Brinn v. Tidewater Transportation District Commission</u> , E.D.VA (Norfolk) Case No.: 2:99cv1637.	A. 10,000+
(B) <u>DRVD and Talley v. Bon Secours – Saint Mary's Hospital</u> , E.D.VA (Richmond). Case No.: 3:00CV219.	B. 600,000 +
2. Number of individuals named in class actions	A. 4 B. 1

Describe your litigation/class action activities. Explain how individuals with disabilities benefited from your litigation activities. Be sure to include case examples that demonstrate the impact of your litigation. (Attach separate sheets if necessary.)

Brinn: Plaintiffs brought this action on behalf of themselves and, as a class action, on behalf of all those similarly situated, alleging that Defendant, Tidewater Regional Transportation District t/a Tidewater Regional Transit (hereinafter "TRT"), a public entity which receives federal funding, its officers, employees, and those acting at its direction, failed and/or refused to provide necessary, and statutorily mandated, public transportation for individuals with disabilities and that such failure discriminates against individuals with disabilities in violation of the Americans with Disabilities Act of 1990 ("ADA"), Section 504 of the Rehabilitation Act of 1973 and the regulations promulgated pursuant to each. Specifically, TRT failed/refused to provide paratransit transportation on a given day in response to a request made the previous day ("next day paratransit transportation"). TRT told persons with disabilities to call 2 weeks in advance to have any hope of receiving transportation. After negotiations failed, DRVD filed suit. DRVD filed a Motion for Preliminary Injunction and conducted depositions. In depositions, it was learned that the odds of a person receiving next-day paratransit transportation was one in ten. Based upon this and other information, DRVD filed a Motion for Summary Judgment. The case was settled 10 days before argument on the Motion. TRT agreed to a permanent injunction requiring it to provide next-day paratransit transportation and agreed to submit monthly monitoring reports to DRVD for two years. DRVD was subsequently awarded over \$29,000 in attorneys fees. (The award of fees has been appealed by TRT).

Talley. Ms. Talley, who is deafblind, was a patient at defendant's hospital from 9 April – 12 April, 1999. During Ms. Talley's hospitalization, the defendant failed and/or refused to provide her a qualified sign language interpreter, which she needed to communicate effectively, participate in her medical care and treatment, have an equal opportunity to benefit from the defendant's services and to comprehend and make fully-informed decisions regarding medical procedures and treatment. Rather than provide such an interpreter, defendant, instead, employed patient's friends or other individuals, who were not qualified interpreters, to communicate with her regarding official and private medical matters or, when such persons were not present, provided no means for her to effectively communicate with her doctors, nurses and other medical care providers. After negotiations failed, DRVD filed suit naming her individually and naming DRVD as a plaintiff on behalf of the over 600,000 persons with hearing impairments in the Commonwealth. The case was settled before trial. The hospital issued new policies and practices which will ensure that persons with hearing impairments and person who need auxiliary aids and services receive them promptly. The agreement requires the hospital to assess the needs of its patients at the earliest stage of the admissions process, and, upon recognizing that the patient requires a qualified interpreter immediately provide the needed accommodation.

PART V. PAIR'S PRIORITIES AND OBJECTIVES:

For each of your PAIR program priorities for the fiscal year covered by this report, please provide the following information:

1. Identify and describe the priority.
 2. Identify the need, issue or barrier addressed by this priority.
 3. Identify and describe indicators PAIR used to determine successful outcome of activities pursued under this priority.
 4. Explain whether pursuing this priority involved collaborative efforts by other entities. If so, describe this collaboration.
 5. Provide the number of cases handled under the priority. Indicate how many of these, if any, were class actions.
 6. Provide at least one case summary that demonstrates the impact of the priority.
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Priority 1. To provide advocacy and legal representation to persons with disabilities who have been denied access to public accommodations in violation of Title III of the ADA.

A. Needs Issues and Barriers Addressed

1. Denial of access to places of public accommodation by private sector entities, in violation of Title III of the Americans with Disabilities Act.
2. Denial of access and/or reasonable accommodations to persons with disabilities by hospitals and medical care facilities, in violation of ADA Title III.
3. Inaccessible retail establishments which are lottery retail licensees, in violation of ADA Title III, denying persons with disabilities the right to purchase lottery tickets at certain establishments and/or the right to purchase other items sold at these lottery outlets.
4. Need to improve the self advocacy skills of consumers and need for consumers and operators of public accommodations to have sufficient information regarding rights and responsibilities under the ADA.

B. Indicators used to determine successful outcome

Successful case closures, trainings held, settlement agreements confirmed, number of entities which have come into compliance with the ADA. Specifics relating to accomplishments under this priority are as follows:

Issue 1. Ongoing. To date, negotiations with entities have resulted in over 450 locations becoming or agreeing to become accessible to persons with disabilities. Negotiations with major, nationwide entities have been commenced with two such settlements reached. Few entities have refused to become compliant and litigation defendants will be selected from a list of those entities. This goal has been carried over to FY 2001.

Issue 2. DRVD filed a lawsuit in a previously opened case regarding access to sign language interpreters. The case has reached a provisional settlement, resulting in the hospital agreeing to compensate the individual and agreeing to ensure access to sign language interpreters for persons with hearing impairments. The hospital has also agreed to propound an official policy for all employees regarding their obligation to offer to provide sign language interpreters for hearing impaired individuals. The hospital has also agreed to provide training for employees involved in patient care regarding recognizing and treating individuals with hearing impairments. This goal has been carried over to 2001 and work this year is further described under Section C below, collaborative efforts.

Issue 3. Preliminary agreement was reached through which the Lottery Department began surveying all outlets in 3/99. Surveys were completed and reviewed by DRVD. A meeting was held with Lottery officials where the parties agreed that the Lottery would contact its franchisees and require them to make alterations to their facilities in order to come into compliance with the ADA. DRVD will provide technical assistance and advice to the Lottery. The files of retailers who refuse to make reasonable accommodations will be referred to DRVD for further action. The Lottery has agreed that it will require its franchisees to be fully compliant with the ADA. Prospective franchisees will undergo an ADA inspection and review and must then bring their facilities into compliance with the ADA prior to being issued a license. Current franchisees will be required to make alterations to bring their facilities into full compliance with the ADA as a condition of retaining/renewing their licenses.

Issue 4. Resource materials were provided to consumers and disability groups upon request through the Consumer Services Division and directly by legal staff. Information and referral was provided to all individuals who contact the agency. Trainings were requested and completed during the third quarter for the National Federation for the Blind and for a coalition of disability advocacy groups in the Tidewater area.

C. Collaborative Efforts.

Issue 2. A DRVD staff attorney contacted the Commonwealth Council of the Blind, the Central Virginia regional affiliate of the Old Dominion Council of the Blind; Northern Virginia Resources for the Deaf and Hard of Hearing Persons, which supports a roundtable of 15 other organizations; and nearly all of the Centers for Independent Living in Virginia regarding Phase II of the ADA Campaign and without exception was well received. She received numerous offers of help from nearly every contact. The disAbility Resource Center in Fredericksburg, a CIL, has offered the expertise of one of their staff to train hospital staff to appropriately serve patients with hearing loss.

A DRVD Attorney located in Virginia Beach met with the Community Services Coordinator for the Endependence Center in Norfolk (a CIL) which submitted a cost per site proposal for consideration to provide a survey of hospitals and other identified medical providers, to include development of the survey instrument, training of the surveyors, identification of sites and performance of the surveys, including providing interpreters and transportation as required. This proposal would provide for a statewide survey, utilizing participants from other CILs as surveyors, and could result in significantly improved collaborative relationships between DRVD and the disability advocacy community.

Issue 3. All activities regarding this issue were conducted in collaboration with the State Lottery Department.

C. Number of Cases in Priority, including Class Actions: _

65

D. Case Examples

Example 1. After several surveys of Hardees Restaurants throughout Virginia revealed that Hardees restaurants were inaccessible to persons with disabilities, DRVD contacted Boddie-Noel Corporation, the largest Hardees franchisee in the United States. Several negotiating sessions and site visits were held between the parties. As a result, Boddie-Noel has entered into a settlement agreement with DRVD in which it agreed to bring all of its facilities (over 200) in Virginia into compliance with the ADA within a three year period.

Example 2. MT, who is deafblind, was an inpatient at a hospital for four days. Despite multiple requests, she was not provided with a qualified sign language interpreter. DRVD commenced negotiations with the hospital in an attempt to resolve the matter amicably. When such procedures failed, DRVD filed suit on behalf of the client, seeking injunctive relief and damages. The case was resolved when the hospital entered into a settlement agreement in which it agreed to ensure access to auxiliary aids and services, including interpreters, for persons with disabilities. The hospital also agreed to amend its official policies to include its policy of recognizing and respecting a patient's right to accommodations. The hospital agreed to maintain a list of qualified interpreters. The hospital also paid damages to the plaintiff.

Example 3. The client was a 67-year-old female with a mobility impairment due to a heart problem. She used a wheelchair at the time of the incident.

The client's daughter contacted DRVD in April 1999. The client's daughter had accompanied her mother to a major department store for the purpose of purchasing a pair of shoes. The salesman repeatedly refused to fit the client for the shoes, saying that he did not know "what he might catch from her."

DRVD prepared the case for litigation after initial attempts at settlement failed. However, prior to filing, DRVD was able to negotiate a monetary settlement on behalf of the client, including a provision for required nationwide training of all employees on the provisions of the ADA.

Priority 2. To protect the legal rights of individuals under Title II of the ADA who have (1) been denied physical access to state and/or local government buildings; or (2) been denied access to state or local government programs/services because they use a service animal or require an accommodation in order to access the program or service.

A. Needs Issues and Barriers Addressed

1. Denial of (1) physical access to state and local government entities; or (2) state or local government programs/services because the individual uses a service animal or requires an accommodation in order to access the government program or service.
2. Lack of accessibility of voting polling places for persons with disabilities, denying citizens of the Commonwealth their right to vote if they required particular accommodations.

B. Indicators used to determine successful outcome

Successful case closures, settlement agreements confirmed, number of entities who have come into compliance with the ADA. Specifics relating to accomplishments under this priority are as follows

Issue 1. 11 cases.; 7 successful closures.

Issue 2. DRVD served as a member of the Virginia State Board of Elections (SBE) Task Force on Accessibility, formed to identify barriers to accessibility for person with disabilities at the polls, and to identify ways to eliminate existing barriers. The Task force recommended six (6) revisions in policy and/or practice to the SBE.

The State Board of Elections and its Accessibility Task Force sent out accessibility surveys to each of the 135 Registrars. Each jurisdiction was required to do a self-evaluation of each polling site and to report the results to the SBE. DRVD provided direct assistance by surveying sites where the locality failed to respond. To date, all but one jurisdiction has completed the SBE survey. However the State Board of Elections has limited power over electoral boards and Registrars. See additional descriptive information on this issue in the Systemic Activities section of report.

A DRVD Staff attorney provided voting accessibility training to all Registrars on providing accommodations to voters who are blind and/or deaf, or who otherwise need accommodations in voting. The SBE Task Force developed a brochure for all registrars which detailed voting accommodations for hearing, visual and mobility impaired voters, and required each jurisdiction publish at least one public announcement regarding services to voters with disabilities. The SBE Task Force on Accessibility also developed a booklet on "Preparing a Ballot for a Blind Voter" which provided detailed instruction of preparing templates.

C. Collaborative Efforts.

Issue 2. DRVD worked in collaboration with the State Board of Elections on this effort. See description of activities above.

D. Number of Cases in Priority, including Class Actions: 17 cases

E. Case Examples

Example 1. The client, a 72-year-old male who is mobility impaired due to heart and circulatory problems, initially contacted DRVD in February 2000, when he complained that a church designated as his placing place was not accessible to persons with disabilities. The voting machines were located in the basement, with the only access by stairs. The client then informed the staff attorney know that he had been unable to vote that day (in a primary election) because of the location of the voting machines.

DRVD prepared to litigate this matter when it became clear that the City was not going to act to correct the problem absent an injunction. DRVD contacted the Department of Justice and provided the City with the notice (as required by the Virginians with Disabilities Act (VDV) of intent to file a lawsuit under Title II of the ADA, the VDA and the Voting Rights for the Elderly and Handicapped Act. The matter was favorably resolved, without litigation, when the staff attorney provided technical assistance to the City in relocating the voting machines to an accessible location within the church. This polling place will now be physically accessible and all citizens in this precinct with mobility impairments will be able to vote in the national election in November 2000.

Example 2. AT is a sixteen year old girl with severe cerebral palsy, which restricts her mobility. In order for her to enjoy the New River Trail State Park, in Ivanhoe, VA, she must travel along the trail in a motorized golf cart driven by her mother. She was informed that she would not be allowed to use her cart because the Virginia Department of Conservation and Recreations did not allow motorized vehicles on the trail. After negotiation and a threat of litigation, the matter was resolved and she was granted a special use permit to use her cart on the trail.

Priority 3. To provide advocacy and legal representation services to persons with disabilities who, as a result of ADA Title II violations, have been unable to access publicly funded transportation.

A. Issue/Barrier Addressed

Denial of access to public transportation and/or para-transit services either because of physical accessibility issues or para-transit scheduling/availability issues denying citizens with disabilities.

B. Indicators used to determine successful outcome

Successful class action litigation. See description of activities under Section D, case examples.

C. Collaborative Efforts.

This was a legal representation activity which did not involve collaboration with other entities.

D. Number of Cases in Priority, including Class Actions

1 class action; 15 cases

E. Case Examples

DRVD represented four named plaintiffs and a class of over 10,000 persons with disabilities in a lawsuit against Tidewater Regional Transit, the paratransit provider for the Norfolk/Virginia beach area. The suit alleged that TRT failed to provide next-day paratransit transportation as required by the ADA, Rehabilitation Act and paratransit regulations. Depositions were held and a Motion for Summary Judgment was filed by the plaintiffs. With the Motion for Summary Judgment pending, TRT entered into a settlement agreement in which it guaranteed next-day paratransit transportation for persons with disabilities and would provide monthly reports to DRVD regarding its progress. This case was the first in the history of the ADA to recognize and guarantee a person with a disability's right to next-day paratransit transportation. DRVD was subsequently awarded over \$29,000 in attorneys fees by the Court. The attorneys fees award has been appealed by the Defendant to the United States Court of Appeals for the Fourth Circuit.

Priority 4. To address complaints of employment discrimination on the basis of disability, including accessibility or accommodations issues, in employment cases which occur in private businesses employing fewer than 15 employees.

A. Issue/Barrier Addressed

Discriminatory employment practices and denial of reasonable accommodations, or lack of accessibility by employers with fewer than 15 employees resulting in applicants with disabilities not being hired for a job for which they were otherwise qualified or being unjustly terminated from employment based on disability.

B. Indicators used to determine successful outcome. Successful case closures.

C. Collaborative Efforts. This was a legal representation priority which did not involve collaboration with other entities.

D. Number of Cases in Priority, including Class Actions: **5 cases**

E. Case Example

Example. AH was employed as a church pianist. She took an approved leave of absence after having surgery to her foot. When she attempted to return to her employment, she was told that she would not be permitted to return until she no longer needed crutches or a wheelchair. When she informed her employer that it was discriminating against her and she intended to file suit, if necessary, she was fired from her position. Since the employer had less than 15 employees, DRVD represented her under the Virginians with Disabilities Act. Negotiations were commenced with the employer. On the eve of filing, the employer agreed to pay the client 6 months back pay, the maximum damages allowable under the Virginians with Disabilities Act.

Program Narrative.

All relevant program activities were described in the Sections above.

A. Sources of funds received and expended

PAIR FY 99-00 grant and carry-over funds	\$380,646
PAIR Expenditures:	\$322,975

B. Budget for the fiscal year covered by this report

Category	Expenditure Amounts
Wages and Salaries	\$157,863
Fringe Benefits (FICA, unemployment, etc.)	33,061
Materials/Supplies	3,933
Postage	2,437
Telephone	13,597
Rent	15,831
Travel	13,781
Copying	1,058
Insurance	0
Equipment Rental/Purchase	11,073
Legal Services	12,581
Indirect Costs	42,941
Miscellaneous	14,819
Total	322,975

C. Description of PAIR staff (duties and person-years)

Position Description	Person-Years
Deputy Director	4.1
Managing Attorney	3.4
Staff Attorneys	1.6
Service Coordinators - Intake/Consumer Services Unit	3.5
Program Operations Coordinator - Advisory Councils, Program Reporting	1.5
Public Relations Specialist	1.1
Legal Assistant	.3
Administrative Support Assistant	.9

D. Involvement with advisory boards (if any).

PAIR program staff served on the State Board of Elections Accessibility Task Force. Activities for this task force were described earlier in the report. The PAIR program does not have any direct interaction with the agency's DD or PAIMI Advisory Councils and staff are focused primarily on legal representation and systemic reform activities. However, the P&A itself is represented on numerous advisory boards and task forces, most of which affect individuals who could potentially be PAIR clients. These activities are as follows.

1. The agency participates actively in a statewide advocacy coalition, the Coalition for Children with Disabilities, which focuses on the needs of children and adolescents with disabilities in the area of education and transition. This includes students in special education served by the PAIR program because they are not DD program eligible.
2. DRVD's Deputy Director is a member of the State Special Education Advisory Committee and is active in the monitoring and review of laws and regulations. DRVD also provides comments through this committee both formally and informally on various Virginia Department of Education (DOE) plans and policies. This year, DRVD once again submitted comprehensive comments on DOE's proposed regulations governing special education services.
3. The DRVD Director is an active member of the Virginia Board for People with Disabilities (VBPD)--the Commonwealth's DD Council as well as the Advisory Council of the Virginia Institute on Developmental Disabilities (VIDD)--the Commonwealth's University Affiliated Program. Through this work, DRVD is able to provide input into joint projects, funding priorities, and bring an advocacy view to the work being performed for children and adults with developmental disabilities.
4. A DRVD advocate serves as a representative to the Advisory Council on Mental Health Services for Persons who are Deaf and Hard of Hearing. This group focuses on improving services and developing strategies to assist persons who have a dual diagnosis, including equal access to services.
5. DRVD served on the Department of Social Services Adult Care Residences Advisory Committee charged with drafting emergency regulations regarding the quality of care afforded to residents of adult care residences (now known as assisted living facilities).
6. The DRVD Director serves on the Virginia Public Guardian and Conservator Advisory Board. This year, activities have focused on reviewing and revising the Board's bylaws and regulations to ensure proper operation of this new program.
7. A DRVD advocate serves on the Coalition for Juvenile Justice, a newly formed coalition of interested agencies/entities and individuals developed to address concerns about service delivery for children and adolescents with emotional disturbance or mental illness who are confined in the juvenile justice system.
8. DRVD is a member of the Virginia Assistive Technology (VATS) Council which seeks to eliminate barriers to consumers obtaining assistive technology devices and services in all environments (home, school, work, community).

9. The Deputy Director serves on the Board of Directors of the state Autism Program (TAP), a legislatively funded initiative designed to provide access to appropriate services for persons with autism of all ages.
10. A DRVD staff attorney participates in the Early Intervention Interagency Management Team addressing the needs of infants and toddlers under Part C of IDEA.
11. A DRVD staff attorney participated in a workgroup which is working with the Department of Medical Assistance Services to implement Virginia's first Developmental Disabilities Waiver. The DRVD staff person has played an active role in helping to determine the critical services to be provided under the waiver and how people will be served. The waiver was approved and in effect as of July 1, 2000.
12. A DRVD advocate serves on the state's Mental Health Planning Council, the mission of which is to advocate for a consumer and family-oriented, integrated, and community-based system of mental health care of the highest quality.

E. Grievances filed under the grievance procedure

14 Appeals were filed. They were all regarding eligibility for services.
Eleven were denied. Three were withdrawn.

F. Coordination with the Client Assistance Program (CAP) and the State long-term care program (Ombudsman Program), if these programs are not part of the P&A agency.

The CAP program is part of the P&A agency. Program planning activities are designed to ensure a lack of duplication of services under the various programs. In order to ensure better coordination, DRVD has continued to combine its PAIR program with its Virginians with Disabilities Program for FY 2000. Both programs are primarily focused on ADA accommodations and accessibility issues and combining the two programs provides the agency with greater flexibility in its staffing and effective use of resources. Combining the two programs has also allowed DRVD to work on issues related to accessibility to buildings/programs for persons with developmental disabilities who otherwise could not be served under the PAIR program (due to funding restrictions) and would not be served under the DD program because accessibility issues are not included in that program's priorities. PAIR did not coordinate with the state's Long Term Care Ombudsman Program. However, as noted above, the DRVD Director serves on the Virginia Public Guardian and Conservator Advisory Board of the Department of Aging which houses the Long Term Care Ombudsman Program.

Other Relevant Activities: DRVD also participated in legislative activities in FY 2000. While these were not all directly related to the PAIR program, they were all directly relevant to improving service delivery to and combating discrimination against persons with disabilities, many of whom could potentially be served through the PAIR program.

Legislation proposed by DRVD through the Governor and passed by the General Assembly, included the following:

- State statutory access to facilities, records, and clients. This law provides statutory access to DRVD as the state's protection and advocacy entity, to have reasonable, unfettered access to facilities and institutions (as defined in 37.1-1 and 37.1-179) and all other facilities and

institutions that provide care or treatment to individuals with disabilities. This includes reasonable access to clients, records, and facilities for the purpose of investigating allegations of abuse or neglect and conducting other activities necessary to protect the rights of persons with disabilities.

- Notification of all critical incidents and deaths in facilities operated by the Department of Mental Health, Mental Retardation, and Substance Abuse Services. This law provides DRVD with timely information concerning critical incidents or death and the facility operated by DMHMRSAS. DRVD had received, under an informal agreement, general notification of deaths in facilities but received no notice of critical incidents. The information received prior to the passage of this law, provided only a date of death & a facility. It omitted the patient's name, authorized representative and any circumstances of death, thus rendering DRVD unable to make a determination of probable cause and to pursue a timely investigation and/or correction/resolution. Statutory notification ensures that DRVD is provided with sufficient facts regarding the individual in question and the circumstances surrounding the critical incident or death to reasonably determine if abuse or neglect occurred. A critical incident is defined as serious bodily injury or loss of consciousness requiring medical treatment
- Confidentiality of DRVD client and investigative records. The passage of this legislation was critical to ensuring confidentiality of records, notes, documents, reports, or other information or material collected by DRVD in the course of representing someone who alleges abuse, neglect, or discrimination. DRVD, as the state's protection and advocacy entity, provides legal services to its clients in the same manner as a law firm.

Legislation proposed by DRVD through the Governor and not passed by the General Assembly included:

- Transfer of DRVD from the Secretary of Health and Human Resources to the Secretary of Administration (already in place through Executive Order).

DRVD reviewed and/or monitored/commented on a variety of legislative initiatives and bills covering such issues as

- State special education regulations: prohibition to exceed the requirements of state law or federal law or regulations unless state law directs the Board of Education to exceed the requirements
- Hiring of staff by community services boards, local departments, behavioral health authorities and agencies licensed by DMHMRSAS pending completion of criminal background checks
- Home and Community-Based Waiver for Mental Retardation Study
- Mental health pre-discharge planning
- Notice of group homes for persons with mental illness and/or mental retardation
- Establishment of MHMRSAS Trust Fund from the sale of vacant buildings held by DMHMRSAS for use to enhance and ensure quality of care and treatment provided to consumers with mental illness, mental retardation, or substance abuse.
- Health care coverage for biologically based mental illness
- Zoning of group homes
- Licensing of adult care residences
- Institutionalization of children with developmental disabilities: study
- Vehicle registration cards for owners with disabilities

- Civil Rights Act of 2000 (proposing creation of super-agency)
- Study by Department of Rehabilitative Services of the spinal cord and brain injury registries
- Study on employment opportunities for workers with disabilities
- Study on Medicaid “buy-in” option for people with disabilities
- Speech language pathologists in public schools

Within 90 days after the end of the fiscal year covered by this report, mail one copy of this report to the RSA Regional Office and one copy to the RSA Central Office specified in the instructions.

Signature of agency official

Date